

10

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America,

Plaintiff,

v.

Case: 2:16-mj-30480

Assigned To : Unassigned

Assign. Date : 10/24/2016

Description: SEALED MATTER (LCB)

CLIFFORD FREITAS,

Defendant(s).

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief:

On or about the date(s) of between July 2015 and May 2016, in the county of Macomb
in the Eastern District of Michigan, the defendant(s) violated:

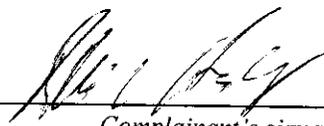
Code Section
18 U.S.C. § 666

Offense Description
Theft or Bribery Concerning Programs Receiving Federal Funds

This criminal complaint is based on these facts:

See attached Affidavit

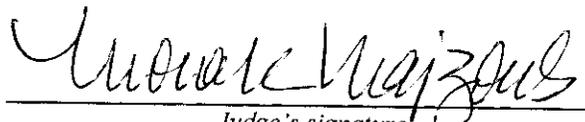
Continued on the attached sheet.


Complainant's signature

FBI Special Agent Kelli C. Hodges
Printed name and title

Sworn to before me and signed in my presence.

Date: October 24, 2016


Judge's signature

City and state: Detroit, Michigan

Hon. Mona K. Maizoub, U.S. Magistrate Judge
Printed name and title

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Affidavit in Support of Complaint and Arrest Warrant

I, Kelli C. Hodges, Special Agent of the Federal Bureau of Investigation (FBI), having been duly sworn, depose and state:

1. I have been a Special Agent with the FBI for more than 13 years. I have worked a variety of violations throughout my career to include public corruption investigations. I am currently assigned to the Macomb Resident Agency of the Detroit Field Division, which is located in the Eastern District of Michigan. I have been involved personally in numerous investigations concerning corruption of public officials.

2. This investigation is being conducted by the Macomb Resident Agency of the FBI and the Detroit Area Corruption Task Force, a multi-agency task force comprised of the FBI and other federal and local agencies. I am familiar with all aspects of this investigation. Because this affidavit is submitted for the limited purpose of establishing probable cause, I have not set forth every fact known to me about this investigation.

3. This is an extensive investigation into systemic corruption in multiple municipalities in Southeast Michigan, primarily Macomb County. The investigation has employed multiple telephone wiretaps, cooperating individuals

making consensual audio and video recordings, an undercover FBI agent, physical surveillance, telephone tracking warrants, and subpoenas of financial and other records. The payment and receipt of bribes have been captured on video tape on multiple occasions.

CLIFFORD FREITAS

4. CLIFFORD FREITAS is an elected trustee on the Macomb Township Board of Trustees in Macomb Township, Michigan. FREITAS has engaged in a pattern of corrupt activity, including demanding and accepting money in exchange for official acts as a trustee. There is probable cause to believe that FREITAS has violated 18 U.S.C. 666, which provides, in pertinent part:

(a) Whoever, if the circumstance described in subsection (b) of this section exists –

(1) Being an agent of ... a State, local, or Indian tribal government, or any agency thereof –

...

(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of \$5,000 or more;

...

shall be fined under this title, imprisoned not more than 10 years, or

both.

5. Subsection (b) of the statute requires that the governmental agency in this case must receive “in any one-year period, benefits in excess of \$10,000 under

a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.” Macomb Township receives far in excess of \$10,000 per year in federal funds, satisfying the requirement of Subsection (b). For example, Macomb Township received a 2015-2017 Community Development Block Grant Award in excess of \$340,000 funded by the United States Department of Housing and Urban Development (HUD).¹

6. CLIFFORD FREITAS’ telephone has been intercepted pursuant to a court order. I have participated in monitoring and reviewing his recorded calls. The recordings revealed a conspiracy between FREITAS and a representative of a vendor [“Company A”] who was pursuing a contract with Macomb Township. The value of the contract exceeds the \$5,000 value required by 18 U.S.C. § 666, as does the value of bribes paid to FREITAS.

7. FREITAS’ calls established that a principal of Company A was involved in providing an ongoing stream of benefits to FREITAS in order to secure the Macomb Township contract and get the billing for the contract placed onto the Macomb Township water bill, reducing Company A’s expenses in servicing the contract. The principal was also the subject of a court-authorized telephone wiretap. In January 2016, the principal was confronted with the evidence in the

¹ Macomb Township Board of Trustees Meeting Minutes and Public Hearing, Wednesday, February 25, 2015.

case. He retained counsel, admitted responsibility, and agreed to cooperate with the investigation. He is referred to in this affidavit as Cooperating Human Source One (CHS1).

Historical Information from CHS1 and Telephone Wiretaps

8. In January of 2016, CHS1 provided information in a series of proffer sessions. CHS1 described his relationship with FREITAS and many other individuals. I have found CHS1 to be credible and reliable, and his information has been corroborated in great detail by telephone wiretaps, consensual recordings, meetings with public officials attended by an undercover FBI agent, and other evidence.

9. FREITAS has been a Trustee in Macomb Township since November 2012. In June 2014, FREITAS took a paid position with Company A, while still a member of the Macomb Township Board of Trustees. In July 2015, Macomb Township put out a request for proposal (RFP) for a contract. Soon after the RFP was put out, FREITAS approached CHS1 and told CHS1 that he would help Company A obtain the contract, but that he (FREITAS) wanted to be paid. CHS1 understood that FREITAS was offering to use his official position as a trustee to help Company A get the contract. CHS1 agreed that he would pay FREITAS \$7,500 for his assistance in getting the contract.

10. Based on recorded conversations on telephone wiretaps, and statements provided by CHS1, it was learned that FREITAS provided sensitive bid information that he obtained through his official position as Macomb Township Trustee regarding the contract to CHS1. Telephone wiretap interceptions show that FREITAS obtained this bid information from a source of information within the Macomb Township government (“the Township source”). FREITAS was excluded from the bid process by Macomb Township due to his employment with Company A. Despite being excluded from the bid process, FREITAS was able to get and pass on information from the Township source on the bid price Company A should bid that would allow Company A to win the contract. Company A was subsequently awarded the Macomb Township contract. On August 24, 2015, FREITAS called CHS1 and told CHS1 the number he should bid. This was information FREITAS had obtained from the Township source:

FREITAS: Alright, I just met with them...Um, your guys are gonna get a phone call from the attorney to negotiate prices tomorrow. And . . . if we're [FREITAS provides the winning bid price to CHS1] uh, there's no way anyone can beat us...And take out the uh, and make it flat for the eight years. And then that year six, seven and eight? We'll renegotiate.

11. On September 8, 2015, CHS1 contacted FREITAS to find out the status of Company A's bid for the Macomb Township contract. FREITAS updated CHS1 on the status and informed CHS1 that he would seek to obtain more information from the Township government later in the day to obtain more

information for CHS1. FREITAS informed CHS1 that he would meet with the Township source in person in order to avoid talking on the telephone about the bid:

CHS1: Good, you think we're still good for tomorrow?

FREITAS: Yeah, [the Township source] said there's a meeting. They're going to make recommendations present it to the board and put it out...I'm gonna try to see [the Township source]. . . . Cause I was hoping [the Township source would] call after the meeting, but [the source] doesn't want to talk on the phone about it.

12. On September 23, 2015, CHS1 contacted FREITAS to tell FREITAS to make sure that the Macomb Township Board of Trustees voted to approve the contract that night. This conversation shows that FREITAS took direction from CHS1 on his official acts as a Macomb Township Trustee. FREITAS also worked closely with the Township source to assist CHS1. The following conversation shows that FREITAS was aware of the conflict of interest and was advised by a Macomb Township Attorney that he will not discuss the contract with FREITAS in case he is called to testify:

FREITAS: Yeah, yeah, [the Township source] said it was gonna go through. That basically, I was comfortable with everything we talked about yesterday. And I tried to convey that to the lawyer.

CHS1: Yeah.

FREITAS: And he said, I don't know what [Company A's competitor] was gonna do, but I'd prefer to not discuss it with you and discuss it with from someone else than [CHS1]. In case you

get called to testify, you could say you've had no involvement in it.

CHS1: Yeah, that's a good idea.

FREITAS: I'll talk to [the Township source] and ice it I'm sure...I'll just reiterate all that to [the Township source]. I'll tell him that the contract, uh, needs to be signed tonight. No if's and's or but's.

CHS1: Yeah, you got it. Yeah, that sounds great. Because if they delay that, then they're, they could be you know exposing themselves.

13. In return for FREITAS' using his position as a trustee to help CHS1 obtain the contract, CHS1 attempted to make the agreed upon \$7,500 bribe payment to FREITAS as a bonus in his pay check with Company A. Company A's internal policy did not allow the payment as a bonus and it was converted to a loan. The bribe payment made to FREITAS by CHS1 was then dispersed in the form of a \$7,500 loan from Company A. In order to make up for the automatic withdrawals from FREITAS' pay check to pay back the loan, CHS1 provided cash to FREITAS.

14. Sometime after the contract was awarded, FREITAS told CHS1 that he would like to be paid additional money by CHS1. CHS1 and FREITAS agreed that FREITAS would receive an additional \$35,000 bribe if he was able to get the billing for the contract put onto the Macomb Township water bill. FREITAS agreed to use his official position as a trustee to accomplish this for CHS1. For Company A, receiving payment directly from a municipality itself, as opposed to

from its individual residents, would save the company a significant amount of money.

15. FREITAS has taken steps toward getting the billing for the contract onto the Macomb Township water bill by contacting at least one Macomb Township public official and seeking to convince the official to put Company A's billing for the contract onto the Macomb Township water bill.

Covert Cooperation of CHS1

16. On May 6, 2016, the FBI used CHS1 to make a \$2,000 controlled bribe payment to FREITAS. The payment was audio and video recorded, and I have reviewed the recordings. This \$2,000 payment was partial payment to make up for the original \$7,500 bribe payment that was turned into a loan by Company A and was being deducted from FREITAS' Company A paycheck. FREITAS agreed to continue to assist in getting the billing for the contract onto the Macomb Township water bill. The following is an excerpt from the controlled bribe payment:

CHS1: Yeah, so here's uh, I think this is two [\$2,000 cash], let me make sure. [CHS1 can be heard counting the money]. Yeah, sorry. I couldn't remember what the hell I put in there. [CHS1 hands FREITAS an envelope containing \$2,000].

FREITAS: Okay, oh thank you.

CHS1: There's and that, I mean so that, that way there's no record of it or anything.

FREITAS: Okay.

CHS1: You know what I mean?

FREITAS: Yeah.

CHS1: So that'll be for the, ya know, the whole water bill effort, so.

FREITAS: Mmm.

CHS1: I know they're takin' that outta your check and stuff, so.

FREITAS: Okay.

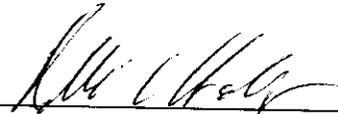
CHS1: Um, so that looks pretty good, huh?

FREITAS: Yeah, it looks good...

Conclusion

17. Based on all of the above, I believe that probable cause exists that CLIFFORD FREITAS has committed Theft or Bribery Concerning Programs Receiving Federal Funds, in violation of 18 U.S.C. § 666.

Respectfully submitted,



KELLI C. HODGES
Special Agent, Federal Bureau of
Investigation

Subscribed and sworn to before me
on October 24, 2016, at Detroit, Michigan.



HON. MONA K. MAJZOUB
United States Magistrate Judge